

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES SOLER,

Plaintiff,

V.

COUNTY OF SAN DIEGO, et al.,

Defendants.

Case No.: 14cv2470-MMA(RBB)

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR NEW TRIAL DATE
[ECF NO. 206];**

FIFTH AMENDED SCHEDULING ORDER REGULATING DISCOVERY AND OTHER PRE-TRIAL PROCEEDINGS

On December 21, 2019, Plaintiff filed a notice with the Court to advise of his counsel's conflict with the January 12, 2021 trial date and to request that the trial be advanced to mid-December 2020. (ECF No. 206.) Defendants Wilkins and Hobbs filed a response to Plaintiff's request on December 23, 2019, in which they indicated they did not object to moving the trial date but requested that it be reset for February 2021 or thereafter. (ECF No. 207.) The San Diego County Defendants did not file a response to Plaintiff's request. After consulting with the chambers of the Honorable Michael M. Anello and upon good cause appearing, the Court hereby **GRANTS** Plaintiff's request for a trial date in December 2020, modifies the motion in limine deadlines, the pretrial conference date, and the deadlines associated with the pretrial conference, and enters the

1 following Fifth Amended Scheduling Order:

2 1. The deadline for Plaintiff to file a motion for leave to file an amended
3 complaint is January 17, 2020.¹

4 2. A Mandatory Settlement Conference will be conducted on March 18, 2020
5 at 10:00 a.m. in the chambers of Magistrate Judge Ruben B. Brooks. Counsel must
6 submit confidential settlement briefs directly to the magistrate judge's chambers by
7 March 11, 2020. All parties, claims adjusters for insured defendants and non-lawyer
8 representatives with complete authority to enter into a binding settlement, as well as the
9 principal attorneys responsible for the litigation, must be present and legally and factually
10 prepared to discuss and resolve the case at the mandatory settlement conference and at all
11 settlement conferences. Retained outside corporate counsel shall not appear on behalf of
12 a corporation as the party representative who has the authority to negotiate and enter into
13 a settlement. Failure to attend or obtain proper excuse will be considered grounds for
14 sanctions.

15 3. Discovery between Plaintiff and all County of San Diego-related defendants
16 is closed. Paragraphs 4 through 10 below pertain only to discovery relating to Plaintiff's
17 claims against Defendants Wilkins and Hobbs and to these defendants' defenses.

18 4. All fact discovery must be completed by May 15, 2020. "Completed"
19 means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure, and
20 discovery subpoenas under Rule 45, must be initiated a sufficient period of time in
21 advance of the cut-off date, **so that it may be completed** by the cut-off date, taking into
22 account the times for service, notice and response as set forth in the Federal Rules of
23 Civil Procedure. **Counsel must promptly and in good faith meet and confer with**
24 **regard to all discovery disputes in compliance with Local Rule 26.1(a).** The Court
25 expects counsel to make every effort to resolve all disputes without court intervention

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27 1 All motions filed before the Court must be new motions that are fully-noticed and self-contained. The
28 parties may not incorporate by reference any arguments or evidence submitted in connection with prior
motions or filings in this case.

1 through the meet and confer process. If the parties reach an impasse on any discovery
2 issue, counsel must file an appropriate motion within the time limit and procedures
3 outlined in the undersigned magistrate judge's chambers rules. **A failure to comply in**
4 **this regard will result in a waiver of a party's discovery issue. Absent an order of**
5 **the court, no stipulation continuing or altering this requirement will be recognized**
6 **by the court.**

7 5. All motions for discovery shall be filed no later than thirty (30) days
8 following the date upon which the event giving rise to the discovery dispute occurred.
9 The 30-day deadline will not be extended without a prior Court order; counsel cannot
10 unilaterally extend the deadline. For example, ongoing meet-and-confer efforts, rolling
11 document productions, or supplemental discovery responses do not extend the deadline.
12 A failure to comply will bar the party from filing a corresponding discovery motion. For
13 oral discovery, the event giving rise to the discovery dispute is the completion of the
14 transcript of the affected portion of the deposition. For written discovery, the event
15 giving rise to the discovery dispute is the service of the response. All interrogatories,
16 requests for admission, and document production requests must be served by **January**
17 **17, 2020.**

18 6. The parties must designate their respective experts in writing by **May 29,**
19 **2020.** The parties must identify any person who may be used at trial to present evidence
20 pursuant to Rules 702, 703 or 705 of the Fed. R. Evid. This requirement is not limited to
21 retained experts. The date for exchange of rebuttal experts must be by **June 12, 2020.**
22 The written designations must include the name, address and telephone number of the
23 expert and a reasonable summary of the testimony the expert is expected to provide. The
24 list must also include the normal rates the expert charges for deposition and trial
25 testimony.

26 7. By **June 26, 2020,** each party must comply with the disclosure provisions in
27 Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure
28 requirement applies to all persons retained or specially employed to provide expert

1 testimony, or whose duties as an employee of the party regularly involve the giving of
2 expert testimony. **Except as provided in the paragraph below, any party that fails to**
3 **make these disclosures will not, absent substantial justification, be permitted to use**
4 **evidence or testimony not disclosed at any hearing or at the time of trial. In**
5 **addition, the Court may impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

6 8. Any party must supplement its disclosure regarding contradictory or rebuttal
7 evidence under Fed. R. Civ. P. 26(a)(2)(D) by **July 10, 2020**.

8 9. All expert discovery must be completed by **August 7, 2020**. The parties
9 must comply with the same procedures set forth in the paragraph governing fact
10 discovery.

11 10. Failure to comply with this section or any other discovery order of the court
12 may result in the sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on
13 the introduction of experts or other designated matters in evidence.

14 11. All dispositive pretrial motions, including motions for summary judgment
15 and motions addressing *Daubert* issues, must be filed by **August 24, 2020**. Counsel for
16 the moving party must obtain a motion hearing date from Judge Anello's law clerk. The
17 period of time between the date you request a motion date and the hearing date may vary
18 from one district judge to another. Please plan accordingly. Failure to make a timely
19 request for a motion date may result in the motion not being heard.

20 12. Motions in limine are due **October 19, 2020**, and will be heard at the
21 Pretrial Conference. Oppositions to motions in limine are due **November 2, 2020**. No
22 Reply briefs will be accepted.²

23 13. In jury trial cases before the Honorable Michael M. Anello, neither party is
24 required to file a Memoranda of Contentions of Fact and Law pursuant to Civil Local
25 Rule 16.1.f.2.

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² For further information regarding motions in limine, please refer to Judge Anello's Civil Chambers
Rules.

1 14. Counsel must comply with the pre-trial disclosure requirements of Fed. R.
2 Civ. P. 26(a)(3) by **November 2, 2020**. Failure to comply with these disclosure
3 requirements could result in evidence preclusion or other sanctions under Fed. R. Civ. P.
4 37.

5 15. Counsel must meet and take the action required by Local Rule 16.1(f)(4) by
6 **October 26, 2020**. At this meeting, counsel will discuss and attempt to enter into
7 stipulations and agreements resulting in simplification of the triable issues. Counsel will
8 exchange copies and/or display all exhibits other than those to be used for impeachment.
9 The exhibits must be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel
10 must note any objections they have to any other parties' Pretrial Disclosures under Fed.
11 R. Civ. P. 26(a)(3). Counsel must cooperate in the preparation of the proposed pretrial
12 conference order.

13 16. Counsel for plaintiff will be responsible for preparing the pretrial order and
14 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **November 2,**
15 **2020**, plaintiff's counsel must provide opposing counsel with the proposed pretrial order
16 for review and approval. Opposing counsel must communicate promptly with plaintiff's
17 counsel concerning any objections to form or content of the pretrial order, and both
18 parties must attempt promptly to resolve their differences, if any, concerning the order.

19 17. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
20 **Michael M. Anello** on **November 16, 2020 at 2:30 p.m.**

21 18. The Proposed Final Pretrial Conference Order, including objections to any
22 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures must be prepared, served and
23 lodged with Judge Anello by **December 3, 2020**,³ and must be in the form prescribed in
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³ As noted in Judge Anello's Civil Chambers Rules: "This rule modifies and supersedes the deadlines set
26 forth in Civil Local Rule 16.1.f.6.b, as well as any inconsistent terms of a scheduling/case management
27 order issued in a case by the assigned magistrate judge. Judge Anello **does not** require the parties to
28 submit a joint proposed pretrial order *prior* to the final pretrial conference, and thus the requirement of
Local Rule 16.1.f.6.b is **waived**. This policy allows for the parties to take into account the Court's
rulings on motions in limine when preparing the joint proposed pretrial order."

1 and comply with Local Rule 16.1(f)(6).

2 19. The trial is scheduled to start on **December 15, 2020, at 9:00 a.m.**

3 20. The parties must review and be familiar with Judge Anello's Civil Chambers
4 Rules.

5 21. A post trial settlement conference before a magistrate judge may be held
6 within 30 days of verdict in the case.

7 22. The dates and times set forth herein will not be modified except for good
8 cause shown.

9 **IT IS SO ORDERED.**

10 Dated: January 13, 2020


11 Hon. Ruben B. Brooks
12 United States Magistrate Judge

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CASE RESOLUTION GUIDELINES

Attendance

All parties and claims adjusters for insured Defendants and representatives with complete authority to enter into a binding settlement, as well as the principal attorney(s) responsible for the litigation, must be present and legally and factually prepared to discuss and resolve the case. Failure to attend or obtain proper excuse will be considered grounds for sanctions.

Case Resolution Conference Briefs

Written statements, when specifically requested, shall be lodged no later than five court days before the scheduled conference. The statements will not become part of the court file. Written statements may be submitted on a confidential basis and lodged with Judge Brooks either by mail, by e-mail, or hand-delivery to the Clerk's Office in an envelope clearly marked "Confidential - Do Not File."

Any statement submitted should avoid arguing the case. Instead, the statement should include a neutral factual statement of the case and concisely set out issues of liability and damages, including any settlement demands and offers to date, and address special and general damages where applicable.

If appropriate, the Court will consider the use of other alternative dispute resolution techniques.

If you have any further questions, please feel free to contact my research attorney, at (619) 557-3404.